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Nos. 05-908, 05-915

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Supreme Court of the United States

PARENTS INVOLVED IN COMMUNITY SCHOOLS,
Petitioner,

v.

SEATTLE SCHOOL DISTRICT NO. 1, *et al.*,
Respondents.

CRYSTAL D. MEREDITH, CUSTODIAL PARENT AND NEXT FRIEND OF JOSHUA RYAN MCDONALD,
Petitioner,

v.

JEFFERSON COUNTY BOARD OF EDUCATION, *et al.*,
Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURTS OF APPEALS FOR THE NINTH AND SIXTH CIRCUITS

BRIEF FOR AMICI CURIAE THE AMERICAN PSYCHOLOGICAL ASSOCIATION AND THE WASHINGTON STATE PSYCHOLOGICAL ASSOCIATION IN SUPPORT OF RESPONDENTS

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TABLE OF AUTHORITIES

CASES

Page(s)

Gratz v. *Bollinger*, 539 U.S. 244 (2003) 3
Grutter v. *Bollinger*, 539 U.S. 306 (2003) 3, 4
Metro Broadcasting, Inc. v. *FCC*, 497 U.S. 547 (1990) 2
Parents Involved in Community Schools v. *Seattle School District, No. 1*, 426 F.3d 1162 (9th Cir. 2005) 2, 3
Regents of University of California v. *Bakke*, 438 U.S. 265 (1978) 3

BOOKS AND ARTICLES

APA Resolution on Prejudice, Stereotypes, and Discrimination (Feb. 2006), *available at* http://www.apa.org/pi/prejudice_discrimination_resolution.pdf 1
Aboud, Frances E. & Maria Amato, *Developmental and Socialization Influences on Intergroup Bias*, in *Blackwell Handbook of Social Psychology: Intergroup Processes* 65 (Rupert Brown & Samuel L. Gaertner eds., 2001) 8, 9
Aboud, Frances E. & Sheri R. Levy, *Interventions to Reduce Prejudice and Discrimination in Children and Adolescents*, in *Reducing Prejudice and Discrimination* 269 (Stuart Oskamp ed., 2000) 9, 16, 18
Allport, Gordon, *The Nature of Prejudice* (1954) 10, 11
Baron, Andrew Scott & Mahzarin R. Banaji, *The Development of Implicit Attitudes: Evidence of Race Evaluations from Ages 6 and 10 and Adulthood*, 17 Psych. Sci. 53 (2006) 9
Bettencourt, B. Ann & Nancy Dorr, *Cooperative Interaction and Intergroup Bias: Effects of Numerical Representation and Cross-Cut Role Assignment*, 24 Personality & Soc. Psychol. Bull. 1276 (1998) 13

TABLE OF AUTHORITIES—Continued

Page(s)

Betts, Julian R., et al., *Does School Choice Work? Effects on Student Integration and Achievement* 44 (2006) 27

Bigler, Rebecca S. & Lynn S. Liben, *A Cognitive-Developmental Approach to Racial Stereotyping and Reconstructive Memory in Euro-American Children*, 64 Child Dev. 1507 (1993) 8, 9

Blair, Irene V., *The Malleability of Automatic Stereotypes and Prejudice*, 6 Personality & Soc. Psychol. Rev. 242 (2002) 10

Braddock, Jomills & James M. McPartland, *Social-Psychological Processes That Perpetuate Racial Segregation: The Relationship Between School and Employment Desegregation*, 19 J. Black Stud. 267 (1989) 19

Braddock, Jomills Henry, II & Tamela McNulty Eitle, *The Effects of School Desegregation*, in *Handbook of Research on Multicultural Education* 828 (James A. Banks & Cherry A. McGee Banks eds., 2d ed. 2004) 19

Clotfelter, Charles T., *After* Brown*: The Rise and Retreat of School Desegregation* (2004) 26

Devine, Patricia G., *Stereotypes and Prejudice: Their Automatic and Controlled Components*, 56 J. Personality & Soc. Psychol. 5 (1989) 23

Dovidio, John F., et al., *On the Nature of Prejudice: Automatic and Controlled Processes*, 33 J. Experimental Soc. Psychol. 510 (1997) 10, 23

Dovodio, John F., et al., *Reducing Contemporary Prejudice: Combating Explicit and Implicit Bias at the Individual and Intergroup Level*, in *Reducing Prejudice and Discrimination* 137 (Stuart Oskamp ed., 2000) 12, 14

TABLE OF AUTHORITIES—Continued

Page(s)

Dovidio, John F., et al., *Why Can't We Just Get Along? Interpersonal Biases and Interracial Distrust*, 8 Cultural Diversity & Ethnic Minority Psychol. 88 (2002) 8, 24

Eberhardt, Jennifer L., et al., *Seeing Black: Race, Crime, and Visual Processing*, J. Personality & Soc. Psychol. 876 (2004) 7

Fiske, Susan T., *Interdependence and the Reduction of Prejudice*, in *Reducing Prejudice and Discrimination* 115 (Stuart Oskamp ed., 2000) 13

Fiske, Susan T., *Stereotyping, Prejudice and Discrimination*, in 2 *The Handbook of Social Psychology* 357 (Daniel T. Gilbert et al. eds., 4th ed. 1998) 5, 6, 7

Gaertner, Samuel L. & John F. Dovidio, *The Aversive Form of Racism*, in *Prejudice, Discrimination, and Racism* 61 (John F. Dovidio & Samuel L. Gaertner eds., 1986) 7, 23, 24

Gaertner, Samuel L., et al., *The Contact Hypothesis: The Role of a Common Ingroup Identity on Reducing Intergroup Bias Among Majority and Minority Group Members*, in *What's Social About Social Cognition?: Research on Socially Shared Cognition in Small Groups* 230 (Judith L. Nye & Aaron M. Brower eds., 1996) 13

Graham, Sandra & Jaana Juvonen, *Ethnicity, Peer Harassment, and Adjustment in Middle School: An Exploratory Study*, 22 J. Early Adolescence 173 (2002) 20

Johnson, David W. & Roger T. Johnson, *The Three Cs of Reducing Prejudice and Discrimination*, in *Reducing Prejudice and Discrimination* 239 (Stuart Oskamp ed., 2000) 13

Juvonen, Jaana, et al., *Ethnic Diversity and Peer Perceptions of Safety in Urban Middle Schools*, 17 Psych. Sci. 393 (2006) 16

TABLE OF AUTHORITIES—Continued

Page(s)

Killen, Melanie, et al., *Morality in the Context of Intergroup Relations*, in *Handbook of Moral Development* 155 (Melanie Killen & Judith Smetana eds., 2006) 6, 8, 10, 16

Killen, Melanie, et al., *The Social Developmental Benefits of Heterogeneous School Environments*, in *Lessons in Integration: Realizing the Promise of Racial Diversity in America's Schools* (Erica Frankenberg & Gary Orfield eds., forthcoming 2006) 10

Lord, Charles G. & Delia S. Saenz, *Memory Deficits and Memory Surfeits: Differential Cognitive Consequences of Tokenism for Tokens and Observers*, 49 J. Personality & Soc. Psychol. 918 (1985) 21

Mackie, Diane M., et al., *Social Psychological Foundations of Stereotype Formation*, in *Stereotypes and Stereotyping* 41 (Neil C. Macrae et al. eds., 1996) 5, 6, 8

Margie, Nancy Geyelin, et al., *Minority Children's Intergroup Attitudes About Peer Relationships*, 23 British J. Developmental Psych. 251 (2005) 16

McGlothlin, Heidi & Melanie Killen, *Intergroup Attitudes of European American Children Attending Ethnically Homogeneous Schools*, 77 Child Dev. 1375 (2006) 15, 16

McGlothlin, Heidi, et al., *European-American Children's Intergroup Attitudes About Peer Relationships*, 23 British J. Dev. Psychol. 227 (2005) 15, 16

McKown, Clark & Rhona S. Weinstein, *The Development and Consequences of Stereotype Consciousness in Middle Childhood*, 74 Child Dev. 498 (2003) 22

TABLE OF AUTHORITIES—Continued

Page(s)

Migdal, Michael J., et al., *The Effects of Crossed Categorization on Intergroup Evaluations: A Meta-Analysis*, 37 Brit. J. Soc. Psychol. 303 (1998) 5

Mullen, Brian, et al., *Ingroup Bias as a Function of Salience, Relevance, and Status: An Integration* 22 Eur. J. Soc. Psychol. 103 (1992) 5

Mullen, Brian & Li-tze Hu, *Perceptions of Ingroup and Outgroup Variability: A Meta-Analytic Integration*, 10 Basic & Applied Soc. Psychol. 233 (1989) 6

Pettigrew, Thomas F., *Intergroup Contact Theory*, 49 Ann. Rev. Psychol. 657 (1998) 11, 13

Pettigrew, Thomas F. & Linda R. Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, 90 J. Personality & Soc. Psychol. 751 (2006) ..... *passim*

Pettigrew, Thomas F. & Linda R. Tropp, *Does Intergroup Contact Reduce Prejudice? Recent Meta-Analytic Findings*, in *Reducing Prejudice and Discrimination* 93 (Stuart Oskamp ed., 2004) 12, 16

Rosenthal, Robert, *Meta-Analytic Procedures for Social Science* (rev. ed. 1991) 11

Schofield, Janet W., *Black and White in School: Trust, Tension, or Tolerance* (1989) 15

Schofield, Janet W., *School Desegregation and Intergroup Relations: A Review of the Literature*, 17 Rev. of Res. in Educ. 335 (1991) 13, 17

Schofield, Janet W. & Rebecca Eurich-Fulcer, *When and How School Desegregation Improves Intergroup Relations*, in *Blackwell Handbook of Social Psychology* 475 (Rupert Brown & Samuel L. Gaertner eds., 2001) 17, 18, 19, 20, 21

TABLE OF AUTHORITIES—Continued

Page(s)

Schofield, Janet W. & H. Andrew Sagar, *Desegregation, School Practices, and Student Race Relations*, in *The Consequences of School Desegregation* 58 (Christine H. Russell & Willis D. Hawley eds., 1983) 18, 20, 21

Schofield, Janet W. & H. Andrew Sagar, *Peer Interactions in an Integrated Middle School*, 40 Sociometry 130 (1997) 15

Spencer, Steven J., et al., *Automatic Activation of Stereotypes: The Role of Self-Image Threat*, 24 Personality & Soc. Psychol. Bull. 1139 (1998) 23

Stangor, Charles & David McMillan, *Memory for Expectancy-Congruent and Expectancy-Incongruent Information: A Review of the Social and Social Developmental Literatures*, 111 Psychol. Bull. 42 (1992) 7

Steele, Claude M., *A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance*, 52 Am. Psych. 613 (1997) 22

Stephan, Walter G. & Cookie White Stephan, *Intergroup Relations in Multicultural Education Programs*, in *Handbook of Research on Multicultural Education* 782 (James Banks & Carrie McGee-Banks eds., 2004) 18

Stephan, Walter G. & Cookie White Stephan, *Improving Intergroup Relations* 47 (2001) 18

Stephan, Walter G. & Cookie White Stephan, *Intergroup Anxiety*, 41 J. Soc. Issues 157 (1985) 8, 24, 25

Stephan, Walter G. & Cookie White Stephan, *Intergroup Relations* (1996) 19

Taylor, Shelley E., et al., *Categorical and Contextual Bases of Person Memory and Stereotyping*, 36 J. Personality & Soc. Psychol. 778 (1978) 21

TABLE OF AUTHORITIES—Continued

Page(s)

Tropp, Linda R. & Mary Prenovost, *The Role of Intergroup Contact in Predicting Inter-Ethnic Attitudes: Evidence from Meta-Analytic and Field Studies*, in *Intergroup Relations: An Integrative Developmental and Social Psychological Perspective* (Sheri Levy & Melanie Killen eds., forthcoming 2006) 14

Venezia, Andrea, et al., *Betraying the College Dream* (Stanford University Bridge Project 2006) 4

Wells, Amy Stuart & Robert L. Crain, *Perpetuation Theory and the Long-Term Effects of School Desegregation*, 64 Rev. Ed. Res. 531 (1994) 19, 20

Wells, Amy Stuart, et al., *How Desegregation Changed Us: The Effects of Racially Mixed Schools on Students and Society, available at* http://cms.tc.columbia.edu/i/a/782_ASWells041504.pdf (last visited Oct. 9, 2006) 20

Wilder, David A., *Perceiving Persons as a Group: Categorization and Intergroup Relations*, in *Cognitive Processes in Stereotyping and Intergroup Behavior* 213 (David L. Hamilton ed., 1981) 6, 7, 13

Wright, Stephen C., et al., *The Extended Contact Effect: Knowledge of Cross-Group Friendships and Prejudice*, 73 J. Personality & Soc. Psychol. 73 (1997) 16

Yee, Mia D. & Rupert Brown, *Self-Evaluations and Intergroup Attitudes in Children Aged Three to Nine*, 63 Child Dev. 619 (1992) 5, 8

INTEREST OF AMICI CURIAE

The American Psychological Association (APA)[1] is a voluntary, nonprofit, scientific and professional organization founded in 1892. It is the major association of psychologists in the United States, with more than 145,000 members and affiliates. The APA has 54 divisions representing the full array of areas of emphasis within the field of psychology. The objects of the APA include advancing psychology as a means of promoting human welfare, diffusing psychological knowledge, and encouraging the application of research findings to the promotion of health and public welfare. The APA places a high priority on the amelioration of stereotypes, prejudice, and discrimination among individuals and institutions. *See* APA Resolution on Prejudice, Stereotypes, and Discrimination (Feb. 2006), *available at* http://www.apa.org/pi/prejudice_discrimination_resolution.pdf.

Members of APA research psychological aspects of important social issues such as the causes and consequences of racial and ethnic prejudice and stereotypes and the development of such prejudice and stereotypes in children. A body of social scientific knowledge provides a substantive scientific context for considering these cases. Pertinent studies are scientifically reliable and peer-reviewed, and, taken together, bear directly on the empirical claims at the heart of this matter.

The Washington State Psychological Association (WSPA) is a statewide nonprofit scientific and professional organization. Founded in 1947, WSPA has approximately 700 members and affiliates. WSPA's mission is to support psychologists and psychologists-in-training and to promote the practice of psychology in order to maintain the vitality of the profession in the public interest. WSPA promotes reli-

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[1] The parties have filed with the Court letters consenting to the filing of all *amicus curiae* briefs in these cases. No counsel for any party had any role in authoring this brief, and no one other than *amici curiae* provided any monetary contribution to its preparation or submission.

ance on scientific evidence in crafting policies that enhance the mental and behavioral health of Washington citizens. WSPA joins the APA in this brief to present compelling evidence supporting the principle that local school districts should be permitted to create school assignment plans to ensure diversity throughout public education.[2]

SUMMARY OF ARGUMENT

I. Extensive psychological research shows that, under certain conditions, interaction among persons of different races can diminish racial stereotypes and promote cross-racial understanding, empathy, and mutual respect. These findings apply with particular force in the context of K-12 education. Adults may find it difficult to abandon racial stereotypes already formed, but children who interact regularly with persons of other races are less likely to fall into patterns of stereotypical thinking about other racial groups. Primary and secondary schools provide an excellent setting for this type of sustained interaction. Children and adolescents in racially diverse schools—particularly schools designed to facilitate cross-racial interaction among students—are more likely to learn to regard others as individuals, rather than simply "the product of their race," *Metro Broad., Inc.* v. *FCC*, 497 U.S. 547, 604 (1990) (O'Connor, J., dissenting).

It is noteworthy that the courts below broadly acknowledged, in the words of one judge, "the importance of teaching children, during their formative years, how to deal respectfully and collegially with peers of different races." *Parents Involved in Community Sch.* v. *Seattle Sch. Dist., No. 1*, 426 F.3d 1162, 1194 (9th Cir. 2005) (Kozinski, J., concurring). "The idea that children will gain social, civic, and

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[2] APA and WSPA gratefully acknowledge the assistance of Mary Margaret Brabeck, Ph.D., John F. Dovidio, Ph.D., Susan T. Fiske, Ph.D., Sandra Graham, Ph.D., Melanie A. Killen, Ph.D., Clark Atwater McKown, Ph.D., Janet Ward Schofield, Ph.D., and Linda R. Tropp, Ph.D., in the preparation of this brief.

perhaps educational skills by attending schools with a proportion of students of other ethnicities and races, which proportion reflects the world in which they will move, is a notion grounded in common sense." *Id.* at 1196 (Bea, J., dissenting). As this brief explains, a substantial body of psychological research confirms this understanding.

II. The diversity necessary to generate these substantial benefits in public K-12 education is unlikely to result purely as a matter of private parental choice. Fear of the unknown and unfamiliar often leads individuals to shy away from substantial interaction with persons of other races, and instead to gravitate toward homogeneous neighborhoods, communities, and schools. Even those who consciously disclaim racial prejudice often unconsciously harbor, and act in accordance with, racial stereotypes and racial bias. These phenomena help to explain why, all things being equal, many parents are unlikely to choose to send their children to schools predominantly populated by children of other races. Thus, without school district involvement, children are far less likely to reap the benefits of learning, at an early age, to resist the racial stereotypes that so often result in division and discrimination.

ARGUMENT

I. Racial Diversity In Primary And Secondary Education Challenges Racial Stereotypes And Promotes Harmony And Mutual Respect

This Court has long recognized that student body diversity is a compelling governmental interest that "legitimately may be served" by the consideration of race in admissions to selective public universities. *Regents of Univ. of Cal.* v. *Bakke*, 438 U.S. 265, 320 (1978); *accord Grutter* v. *Bollinger*, 539 U.S. 306, 325 (2003); *Gratz* v. *Bollinger*, 539 U.S. 244, 268 (2003). The Court has explained that the benefits of racial diversity in higher education are both "substantial" and "real": Assembling a racially diverse class "promotes cross-racial understanding, helps to break down racial stereotypes, . . . enables students to better understand persons of different races, promotes learning outcomes, [and] better

prepares students for an increasingly diverse workforce and society[.]" *Grutter*, 539 U.S. at 330 (internal quotation marks and citations omitted).

Peer-reviewed professional literature shows that racial diversity in K-12 education promotes precisely the same goals, and therefore represents an equally compelling interest. Indeed, racial diversity in primary and secondary education is likely to have an even greater effect on inter-race relations than diversity in selective institutions of higher education. As a practical matter, because the majority of children in the United States do not go on to attend selective four-year colleges, the benefits of K-12 racial diversity are likely to have a broader reach.[3] And for many children who do not go on to attend college, primary and secondary school may be the only educational settings in which they have meaningful interaction with persons of different racial backgrounds.

Equally—if not more—important, early interaction with individuals of different racial backgrounds can have profound and lasting effects. Interaction between children and adolescents of different races helps not only "to break down racial stereotypes," but to *prevent* the development of stereotypical thinking. Children begin to classify people by race and develop the capacity for stereotypical thinking in their early years. Childhood and adolescence are important periods for the formation of biases that may be expressed either consciously or unconsciously throughout a person's lifetime. Interaction with others from different racial backgrounds also enables children to develop notions of racial equality and fairness. Early intervention thus can significantly lessen racial prejudices among children and, ultimately, the likelihood that they will engage in discriminatory behavior.

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[3] *Cf.* Andrea Venezia et al., *Betraying the College Dream* 14 (Stanford University Bridge Project 2006) (approximately 20% of first-year postsecondary students attend selective 4-year institutions, while 80% attend non-selective or minimally selective 2- and 4-year institutions).

A. Absent Early Intervention, Normal Cognitive Processes Can Lead To Racial Stereotyping And Racial Bias

1. The nature and consequences of racial stereotypes

As young children become aware of the world around them, they begin to divide individual objects, situations, and people into categories. This categorization is a normal cognitive process that permits children and adults alike to simplify a complex world. Confronted with an overload of individual stimuli, people conserve scarce cognitive energy by identifying the similarities between different stimuli and grouping them together on that basis. When the stimuli are people, this process leads people to group individuals into social categories. *See* generally Diane M. Mackie et al., *Social Psychological Foundations of Stereotype Formation*, in *Stereotypes and Stereotyping* 41, 44-45 (Neil C. Macrae et al. eds., 1996); Susan T. Fiske, *Stereotyping, Prejudice and Discrimination*, in 2 *The Handbook of Social Psychology* 357, 362, 375 (Daniel T. Gilbert et al. eds., 4th ed. 1998).

This simple act of categorization can have dramatic effects on one's attitude toward group members. Research indicates that individuals tend to assign value to differences between others and the group to which they belong, developing more favorable attitudes toward "ingroup" members. *See* Michael J. Migdal et al., *The Effects of Crossed Categorization on Intergroup Evaluations: A Meta-Analysis*, 37 Brit. J. Soc. Psychol. 303 (1998) (presenting evidence confirming the existence of "ingroup bias"); Brian Mullen et al., *Ingroup Bias as a Function of Salience, Relevance, and Status: An Integration*, 22 Eur. J. Soc. Psychol. 103 (1992); Mia D. Yee & Rupert Brown, *Self-Evaluations and Intergroup Attitudes in Children Aged Three to Nine*, 63 Child Dev. 619 (1992) (finding in-group favoritism among young children). Indeed, "the mere existence of different social groups is sufficient to foster biased behavior." *See* David A. Wilder, *Perceiving Persons as a Group: Categorization and Intergroup Relations*, in *Cognitive Processes in Stereotyp-*

ing and Intergroup Behavior 213, 228 (David L. Hamilton ed., 1981) (citing Henri Tajfel, *Cognitive Aspects of Prejudice*, 25 J. Soc. Issues 79 (1969)).

Categorization does not, however, inevitably lead to stereotyping. Mackie et al., *supra*, at 47. Rather, stereotyping occurs only when a person ascribes certain traits to individuals solely on the basis of their group membership. *Id.* at 44, 47; Melanie Killen et al., *Morality in the Context of Intergroup Relations*, in *Handbook of Moral Development* 155, 163 (Melanie Killen & Judith Smetana eds., 2006). Viewing social groups through the lens of stereotypic assumptions tends to produce at least four kinds of cognitive responses.

First, people perceive greater homogeneity and less differentiation within an outgroup than an ingroup. That is, people tend to assume that members of their own group will possess a *diversity* of attitudes and beliefs, while others will conform to stereotypic expectations. *See* Wilder, *supra*, at 226 ("[I]ngroup members [a]re assumed to have a wider range of beliefs than outgroup members. Relative to the ingroup, the outgroup [is] thought to be more homogeneous . . . ."); *see also* Brian Mullen & Li-tze Hu, *Perceptions of Ingroup and Outgroup Variability: A Meta-Analytic Integration*, 10 Basic & Applied Soc. Psychol. 233-52 (1989) (presenting evidence confirming the outgroup homogeneity effect). People thus tend to see ingroup members as individuals, and members of other groups as "all the same."

Second, people explain the causes of the actions of members of other groups and their own group in different ways. Negative behaviors of members of other groups are attributed to stable, internal factors (*e.g.*, their personality or character) and positive behaviors are dismissed as situationally caused. *See* Fiske, *Stereotyping, Prejudice, and Discrimination*, *supra*, at 370 (citing studies). In contrast, people tend to discount negative actions of their own group and attribute positive behaviors to internal causes. *See id.* In communication, they also talk about negative behaviors of members of other groups and positive behaviors of members of their own group in deeper, more abstract ways. *See id.*

Thus, these processes contribute not only to the formation of personal stereotypes but also to the way members of groups are thought about by others.

Third, stereotypic assumptions affect perception: People often resort to stereotypes to fill in the gaps in short, unfocused, or partial sense impressions. *See id.* at 368. Stereotypic associations between social groups and concepts can guide how people process visual stimuli in their environment. *See* Jennifer L. Eberhardt et al., *Seeing Black: Race, Crime, and Visual Processing*, J. Personality & Soc. Psychol. 876, 889 (2004) (discussing stereotypic associations between African-Americans and crime). We are also quicker to identify and process information that is consistent with a stereotype. *See* Fiske, *Stereotyping, Prejudice, and Discrimination*, *supra*, at 368 (citing studies).

Fourth, stereotypic assumptions distort memory. Particularly when people are overloaded with information—as is often the case in everyday life—it is easier to recall information that is consistent with a stereotype than information inconsistent with that stereotype. *See* Wilder, *supra*, at 226 ("[T]he categorization of persons into an ingroup and an outgroup is sufficient to bias subjects' recall of information about the groups."). *See generally* Charles Stangor & David McMillan, *Memory for Expectancy-Congruent and Expectancy-Incongruent Information: A Review of the Social and Social Developmental Literatures*, 111 Psychol. Bull. 42 (1992).

Stereotypical thinking often has more tangible negative ramifications. Such thinking is one source of prejudice—that is, negative feelings about other groups. Negative thoughts about other racial groups often contribute unconsciously to prejudiced attitudes. This type of implicit prejudice, in turn, often manifests itself in discriminatory behavior, anxiety when dealing with members of other groups, and in avoidance of substantial interaction with members of other groups. *See generally* Samuel L. Gaertner & John F. Dovidio, *The Aversive Form of Racism*, in *Prejudice, Discrimination, and Racism* 61-89 (John F. Dovidio & Samuel

L. Gaertner eds., 1986); John F. Dovidio et al., *Why Can't We Just Get Along? Interpersonal Biases and Interracial Distrust*, 8 Cultural Diversity & Ethnic Minority Psychol. 88, 92 (2002); Walter G. Stephan & Cookie White Stephan, *Intergroup Anxiety*, 41 J. Soc. Issues 157-75 (1985). In short, stereotypical thinking poses real and substantial obstacles to harmonious relations among members of different racial groups.

2. Once formed, racial stereotypes are difficult to abandon

The cognitive processes that lead to the formation of stereotypes begin early in life. Preschool-aged children have been shown to categorize people along such varied dimensions as gender, ethnicity, occupation, and age. *See* Mackie et al., *supra*, at 46-47. Racial categories become salient at a young age. *See* Rebecca S. Bigler & Lynn S. Liben, *A Cognitive-Developmental Approach to Racial Stereotyping and Reconstructive Memory in Euro-American Children*, 64 Child Dev. 1507, 1516 (1993).

This process of categorization has predictable effects. As early as ages 5 and 6, children's "perception of individual differences declines in favor of ethnic differences," a manifestation of the so-called homogeneity effect. Frances E. Aboud & Maria Amato, *Developmental and Socialization Influences on Intergroup Bias*, in *Blackwell Handbook of Social Psychology: Intergroup Processes* 65, 71 (Rupert Brown & Samuel L. Gaertner eds., 2001). At ages 3 through 9, children display demonstrably more favorable attitudes toward members of the group to which they belong than they do to members of other groups. *See, e.g.*, Yee & Brown, *supra*. Researchers have found that, between ages 6 and 9, children attribute characteristics based on race. Killen et al., *Morality in the Context of Intergroup Relationships*, *supra*, at 164-65.

During roughly the same period, children become aware of racial stereotypes and become susceptible to memory effects that lead them to reinforce those stereotypes. These

effects were dramatically illustrated in an experiment examining the role of cognitive skill and racial stereotyping in a sample of white children, ages 4 to 9, who had relatively little contact with African-American children. The children were asked to recall stories involving either African-American or white characters associated with one of three negative traits—meanness, dirtiness, or laziness. *See* Bigler & Liben, *supra*, at 1507-18. The data showed that children's memory for stories that were consistent with racial stereotypes was better than their memory for stories involving counter-stereotypic themes and behaviors. *See id.* at 1515. That is, white children found it easier to remember stories with negative depictions of African-Americans than stories in which whites were portrayed negatively.

Critically, parents are generally not the principal influences on their children's attitudes about race. Children do not learn stereotypes solely from their parents, nor do children necessarily imitate their parents' attitudes toward different racial groups. *See* Aboud & Amato, *supra*, at 74. Indeed, most studies have found only a small correlation between the racial attitudes of children and their parents. *See* Frances E. Aboud & Sheri R. Levy, *Interventions to Reduce Prejudice and Discrimination in Children and Adolescents*, in *Reducing Prejudice and Discrimination* 269, 278 (Stuart Oskamp ed., 2000). Children's racial attitudes largely stem, instead, both from their cognitive development and their own social experience. *See* Aboud & Amato, *supra*, at 74-76.

As children grow older, their thinking about racial categories tends to become more flexible. Around age 10, preference for ingroup members decreases. Andrew Scott Baron & Mahzarin R. Banaji, *The Development of Implicit Attitudes: Evidence of Race Evaluations from Ages 6 and 10 and Adulthood*, 17 Psych. Sci. 53, 56 (2006). Their earlier perception of homogeneity within racial groups gradually becomes "more elaborated in structure, . . . allowing children to differentiate within ethnic groups and to use multiple cross-cutting categories" to classify others. Aboud & Amato, *supra*, at 72 (citations omitted). Older children be-

come better able to recognize similarities between different racial groups, as well as to distinguish between societal stereotypes and their own personal beliefs. Killen et al., *Morality in the Context of Intergroup Relationships*, *supra*, at 163-64. This is a time when, in the right circumstances, stereotypical thinking can fall away.

By the time children reach adulthood, however, research shows that it may be difficult for them to abandon the stereotypes they maintain. *See, e.g.*, Irene V. Blair, *The Malleability of Automatic Stereotypes and Prejudice*, 6 Personality & Soc. Psychol. Rev. 242, 255-58 (2002) (although stereotyping and prejudice can be moderated, they can also operate automatically and outside an individual's conscious intent). After years of formulating racial attitudes, adults do not easily change their perceptions of racial difference. Even adults who consciously desire to change their own stereotypes, and who are generally able to keep from openly expressing these stereotypes, often nevertheless spontaneously and unintentionally display implicit biases. *See* John F. Dovidio et al., *On the Nature of Prejudice: Automatic and Controlled Processes*, 33 J. Experimental Soc. Psychol. 510, 534 (1997); *cf.* Melanie Killen et al., *The Social Developmental Benefits of Heterogeneous School Environments*, in *Lessons in Integration: Realizing the Promise of Racial Diversity in America's Schools* (Erica Frankenberg & Gary Orfield eds., forthcoming 2006). These findings underscore the importance of early intervention to reduce stereotyping and prejudice among children and adolescents, and better to prepare them to live productively in a multiracial society.

B. Racial Diversity In K-12 Education Can Inhibit The Formation Of Racial Stereotypes And Racial Bias

1. The importance of intergroup contact

For the past half-century, psychological research has focused on intergroup contact as a touchstone for strategies to reduce racial bias and conflict. Intergroup contact theory, described in Dr. Gordon Allport's seminal book *The Nature*

of Prejudice (1954), holds that interaction with members of other groups can disarm stereotypes, while promoting understanding and mutual respect. More specifically, intergroup contact theory posits that, where four key conditions are present—equal status between groups, common goals, intergroup cooperation, and the support of authorities, law, or custom—interaction among members of different groups can be expected to reduce intergroup prejudice. *See* Thomas F. Pettigrew, *Intergroup Contact Theory*, 49 Ann. Rev. Psychol. 65, 66-67 (1998) (describing the basic features of Allport's hypothesis).

Intergroup contact theory is supported by voluminous social science research. Field studies, laboratory experiments, surveys, and meta-analytic reviews all confirm that positive contact between people of different races typically reduces racial bias and promotes positive race relations. *See, e.g.*, Thomas F. Pettigrew & Linda R. Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, 90 J. Personality & Soc. Psychol. 751, 752-53 (2006). A recent meta-analysis—that is, a statistical analysis that pools the results of a number of studies to determine their size and consistency[4]— examined more than 500 individual intergroup contact studies involving more than 250,000 people from 38 countries. More than 90% of these studies showed that greater intergroup contact resulted in lower incidence of prejudiced attitudes among both majority and minority group members. *See* Pettigrew & Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, *supra*, at 757; *cf.* Thomas F. Pettigrew & Linda R. Tropp, *Does Intergroup Contact Reduce Prejudice? Recent Meta-Analytic Findings*, in *Reducing Prejudice and Discrimination* 93 (Stuart Oskamp ed., 2000).

Moreover, the research showed that intergroup contact changes perceptions of the *entire* outgroup—not just those

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[4] *See generally* Robert Rosenthal, *Meta-Analytic Procedures for Social Science* (rev. ed. 1991).

outgroup members directly involved in the contact. *See* Pettigrew & Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, *supra*, at 759. Scholars have thus concluded that "[a]ctual intergroup contact, under specified conditions, can be a powerful way of reducing intergroup biases." John F. Dovidio et al., *Reducing Contemporary Prejudice: Combating Explicit and Implicit Bias at the Individual and Intergroup Level*, in *Reducing Prejudice and Discrimination* 137, 147 (Stuart Oskamp ed., 2000).

Some commentators had speculated that the findings of intergroup contact studies might be affected by a potential participant bias, such that intergroup contact would be effective in reducing prejudice only if people had willingly chosen to engage in the contact. Specifically, because prejudiced people are more likely to avoid intergroup contact than tolerant people, it was thought that reduced prejudice may simply be correlated with, rather than the result of, interaction with members of outgroups. Studies have demonstrated, however, that "optimal contact reduces prejudice over time, even when researchers have eliminated the possibility of participant selection." Pettigrew & Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, *supra*, at 753 (citations omitted). In other words, the positive effects of intergroup contact are consistent and significant, whether or not participants had a choice about whether to engage in the contact. *Id.*

Intergroup contact is effective in part because it provides an opportunity for members of different groups to get to know one another and to develop affective bonds—feelings of personal closeness and common connection that transcend race. *See, e.g.*, Thomas F. Pettigrew & Linda R. Tropp, *Does Intergroup Contact Reduce Prejudice? Recent Meta-Analytic Findings*, in *Reducing Prejudice and Discrimination* 93, 108 (Stuart Oskamp ed., 2004) (finding that cross-group friendships are strongly associated with reduced prejudice); *see also* Pettigrew & Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, *supra*, at 766-67 (positing that "the process underlying contact's ability to reduce

prejudice involves the tendency for familiarity to breed liking"). But intergroup contact has effects on cognitive, as well as affective, processes. Many scholars have posited that intergroup contact works because interaction with members of other racial groups helps us to deconstruct racial stereotypes and create new social categories that cut across race. As one study explains:

> Negative stereotypes tend to lose their primary potency and to be reduced when interactions reveal enough detail that group members are seen as individuals rather than as members of an ethnic group. All collaborators become "one of us." In other words, cooperation widens the sense of who is in the group, and "they" become "we."

David W. Johnson & Roger T. Johnson, *The Three Cs of Reducing Prejudice and Discrimination*, in Reducing Prejudice and Discrimination 239, 247 (Stuart Oskamp ed., 2000); *see also* Samuel L. Gaertner et al., *The Contact Hypothesis: The Role of a Common Ingroup Identity on Reducing Intergroup Bias Among Majority and Minority Group Members*, in *What's Social About Social Cognition?: Research on Socially Shared Cognition in Small Groups* 230, 232 (Judith L. Nye & Aaron M. Brower eds., 1996); Pettigrew, *Intergroup Contact Theory*, *supra*, at 75; Wilder, *supra*, at 245. This phenomenon is particularly well-documented in dozens of studies of cooperative learning and work environments. *See, e.g.*, B. Ann Bettencourt & Nancy Dorr, *Cooperative Interaction and Intergroup Bias: Effects of Numerical Representation and Cross-Cut Role Assignment*, 24 Personality & Soc. Psychol. Bull. 1276, 1288 (1998); Janet Ward Schofield, *School Desegregation and Intergroup Relations: A Review of the Literature*, 17 Rev. of Res. in Educ. 335, 360 (1991) (citing, *inter alia*, research by Eliot Aronson et al. and Robert E. Slavin); *see generally* Susan T. Fiske, *Interdependence and the Reduction of Prejudice*, in Reducing Prejudice and Discrimination 115 (Stuart Oskamp, ed., 2000) (describing how cooperative environments create the condi-

tions for seeing outgroup members as "individuals" and "all[ies]").

These processes of individuation and recategorization have extremely significant cognitive and behavioral consequences. To begin with, they temper the harmful perceptual distortions triggered by racial categorization. But even more important, once individuals of different racial backgrounds are categorized together on some non-racial basis, powerful ingroup biases cause group members to view one another more favorably. As leading proponents of the recategorization perspective have explained, "[t]ransforming members' representations of the groups to recognize a common ingroup identity can harness the psychological forces that contribute to intergroup bias and redirect them, thus improving attitudes towards people who would otherwise be recognized only as outgroup members." Dovidio et al., *Reducing Contemporary Prejudice*, *supra*, at 158.

2. Short-term effects of intergroup contact in primary and secondary education

Dozens of studies have focused specifically on the application of the intergroup contact theory to K-12 education. Taken as a whole, these studies show that intergroup contact among school-aged children is a vital condition for reducing stereotyping, bias, and prejudice during this important developmental period. A recent meta-analytic review of 198 studies involving intergroup contact among children and adolescents—57% of which examined the effects of contact in school settings—shows that school contact between youth from different racial groups corresponds with more positive intergroup attitudes, and such positive outcomes become even stronger when Allport's optimal conditions are established in the school environment. Linda R. Tropp & Mary Prenovost, *The Role of Intergroup Contact in Predicting Inter-Ethnic Attitudes: Evidence from Meta-Analytic and Field Studies*, in *Intergroup Relations: An Integrative Developmental and Social Psychological Perspective* (Sheri Levy & Melanie Killen eds., forthcoming 2006).

Individual field studies provide concrete illustrations. One early study, for example, analyzed student behavior in a newly opened, integrated middle school whose student body was drawn largely from segregated schools. *See* Janet W. Schofield & H. Andrew Sagar, *Peer Interactions in an Integrated Middle School*, 40 Sociometry 130-38 (1977). Schofield and Sagar analyzed voluntary seating patterns in the cafeteria during the first year of the school's existence. Their analysis revealed that seating became more and more integrated over time—that is, members of different racial groups sat together more as intergroup contact persisted. *See id.* at 135 (taking note of "increasing interracial interaction" over time). The authors of this study reported, therefore, that "highly integrated interracial schooling . . . does foster increased voluntary association between Blacks and Whites." *Id.* at 137. Researchers also found that contact among school-age children reduces intergroup anxiety and helps them to learn to work together more effectively. *See* Janet W. Schofield, *Black and White in School: Trust, Tension, or Tolerance* 162 (1989).

In more recent studies, researchers have compared the racial attitudes of children who attend non-diverse schools against those who attend racially heterogeneous schools. The results of the comparison have been striking. Presented with an ambiguous situation involving characters of different races, white children who attended racially homogeneous schools displayed implicit racial bias in their interpretation of the characters' behavior, rating African-American characters more negatively than white characters. *See* Heidi McGlothlin & Melanie Killen, *Intergroup Attitudes of European American Children Attending Ethnically Homogeneous Schools*, 77 Child Dev. 1375, 1377, 1382-84 (2006) (examining implicit racial bias among first- and fourth-grade white children who attend schools with white student populations of 91.2% and 86.1%, respectively). By contrast, students who attended racially diverse schools displayed no bias or minimal bias. *See* Heidi McGlothlin et al., *European-American Children's Intergroup Attitudes About Peer Relationships*, 23 British J. Dev. Psychol. 227, 236 (2005) (exam-

ining bias among first- and fourth-grade white children attending racially heterogeneous schools); Nancy Geyelin Margie et al., *Minority Children's Intergroup Attitudes About Peer Relationships*, 23 British J. Dev. Psychol. 251, 264 (2005) (examining bias among first- and fourth-grade minority children).

In a study of middle-school children of a variety of racial backgrounds, the majority of whom were Latino and African-American, children in more diverse schools reported greater feelings of safety and fewer feelings of loneliness than their peers in less diverse schools. Moreover, children in diverse classrooms reported greater feelings of self-worth than children in less diverse classrooms. *See* Jaana Juvonen et al., *Ethnic Diversity and Peer Perceptions of Safety in Urban Middle Schools*, 17 Psych. Sci. 393 (2006).

Studies have also found that, although the relationship between racial diversity and views concerning cross-race friendships are complex, children in non-diverse schools are more likely to assume that they cannot form friendships with children of other races. *Compare* McGlothlin & Killen, *supra*, at 1383-84, *with* McGlothlin et al., *supra*, at 242-43, 245, *and* Margie et al., *supra*, at 264. Meta-analyses of research studies focusing largely on adults have shown that cross-race friendships are strongly correlated with reductions in prejudice. Pettigrew & Tropp, *Does Intergroup Contact Reduce Prejudice?*, *supra*. The same is true among children. *See, e.g.*, Aboud & Levy, *supra*, at 272. Significantly, when people become friends with individuals of other races, they are far more likely "to see that there are similarities between people of different ethnicities and that people of other ethnicities are not all the same." *Killen* et al., *Morality in the Context of Intergroup Relations*, *supra*, at 167. Cross-group friendships can also have positive effects on the intergroup attitudes of other in-group members who become aware of the existence of others' cross-group friendships. *See* Stephen C. Wright et al., *The Extended Contact Effect: Knowledge of Cross-Group Friendships and Prejudice*, 73 J. Personality & Soc. Psychol. 73 (1997). Children in integrated

schools are far more likely to reap these benefits than children in homogeneous schools.

To be sure, some of the studies on the impact of school desegregation on intergroup relations have yielded inconclusive or inconsistent results. *See, e.g.*, Janet Ward Schofield, *School Desegregation and Intergroup Relations*, *supra*. Many of these studies were undertaken in the 1970s and early 1980s, preceding significant changes in intergroup attitudes and behavior, and many focused on schools' experiences during the first few years of desegregation. *See id.* at 343. Although intervening demographic and societal changes do not render the earlier research invalid, they may "limit its usefulness for drawing conclusions about the present." Janet W. Schofield & Rebecca Eurich-Fulcer, *When and How School Desegregation Improves Intergroup Relations*, in *Blackwell Handbook of Social Psychology* 475, 477 (Rupert Brown & Samuel L. Gaertner eds., 2001).[5]

Perhaps more important, the variation in the results of the earlier studies may well reflect the fact that "desegregation can be implemented in very different ways, and . . . these differences may well affect their outcomes." Schofield & Eurich-Fulcer, *supra*, at 477-78. Few of the early studies were conducted in environments providing particularly favorable conditions for intergroup contact. *See* Schofield, *School Desegregation and Intergroup Relations*, *supra*, at 360, 381. Notably, those few early studies that did "tak[e] contact theory seriously" yielded "generally promising results." *Id.* at 360. Studies focused on school conditions found markedly more positive intergroup relations where Allport's

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[5] Pettigrew and Tropp explored the question of timing in their meta-analytic review of intergroup contact studies, noting that more recent studies have tended to find larger effects in terms of prejudice reduction than studies conducted before 1980. Pettigrew and Tropp concluded that much of the differences in findings can be explained by differences in research rigor, but that there is in fact a statistically significant difference between the results of pre-1980 and post-1980 studies. Pettigrew & Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, *supra*, at 765.

conditions were met relative to school environments in which Allport's conditions were not met. *See* Janet Ward Schofield & H. Andrew Sagar, *Desegregation, School Practices, and Student Race Relations*, in *The Consequences of School Desegregation* 58, 67-68 (Christine Rossell & Willis Hawley eds., 1983); *see also supra* page 11 (describing Allport's conditions). Some scholars have concluded that intergroup contact alone typically reduces intergroup prejudice. *See* Pettigrew & Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, *supra*, at 753, 766. But it is widely recognized that positive effects are more likely to be realized when the proper conditions exist for productive contact among members of different racial groups. *See, e.g.*, Schofield & Eurich-Fulcer, *supra*. Scholars are thus generally in agreement that intergroup contact is a necessary—even if not wholly sufficient—condition for producing respectful and positive relations between students of all races. *See, e.g.*, Schofield & Eurich-Fulcer, *supra*, at 478.[6]

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[6] The literature indicates that there are no equally effective substitutes for intergroup contact. Research on the effects of educational programs designed to reduce prejudice among children in the absence of intergroup contact has been for the most part inconclusive. Some studies have shown positive effects from interventions designed to focus children's attention on individuating information about outgroup members, but have also noted that curricular approaches may also have no effect, or, rarely, a negative effect. *See* Walter G. Stephan & Cookie White Stephan, *Intergroup Relations in Multicultural Education Programs*, in *Handbook of Research on Multicultural Education* 782, 793-94 (James Banks and Carrie McGee-Banks eds., 2004); *see also* Schofield & Sagar, *Desegregation*, *supra*, at 87.

As a recent survey of techniques for reducing intergroup prejudice among school-age children explains, "there is too little research available to inform educators about which anti-racist programs successfully reduce prejudice and stereotyping." Aboud & Levy, *supra*, at 282; *see also* Walter G. Stephan & Cookie White Stephan, *Improving Intergroup Relations* 47, 62-63 (2001).

3. Long-term effects of intergroup contact in primary and secondary education

The benefits of early exposure to members of other races reach well into adulthood. As a number of studies have found, school integration has long-term positive effects on relationships between individuals from different backgrounds. *See* Schofield & Eurich-Fulcer, *supra*, at 476; Walter G. Stephan & Cookie White Stephan, *Intergroup Relations* 79-82 (1996).

A recent review of studies on the long-term effects of school desegregation demonstrates that attending a diverse school typically leads to increased interaction with members of other racial groups in adulthood. Jomills Henry Braddock II & Tamela McNulty Eitle, *The Effects of School Desegregation*, in *Handbook of Research on Multicultural Education* 828, 834-35 (James A. Banks & Cherry A. McGee Banks eds., 2d ed. 2004); *see also* Amy Stuart Wells & Robert L. Crain, *Perpetuation Theory and the Long-Term Effects of School Desegregation*, 64 Rev. Ed. Res. 531, 552 (1994). Research shows that students who attend integrated schools are more likely than other students to work and live in integrated environments as adults. Jomills Braddock & James M. McPartland, *Social-Psychological Processes That Perpetuate Racial Segregation: The Relationship Between School and Employment Desegregation*, 19 J. Black Stud. 267 (1989) (presenting evidence that school desegregation promotes desegregation in work environments).

In one study, white adults who attended racially diverse schools reported their "decreased fear of people of color." Amy Stuart Wells et al., *How Desegregation Changed Us: The Effects of Racially Mixed Schools on Students and Society* 16, *available at* http://cms.tc.columbia.edu/i/a/782_ASWells041504.pdf (last visited Oct. 9, 2006). And African-American adults who attended racially diverse schools cited their greater preparedness "to function in predominantly white environments." *Id.*

Having reviewed the long-term effects of school desegregation, scholars have concluded that racially diverse

schools can effectively "break[] the cycle of segregation." Wells & Crain, *supra*, at 531. Their work shows that the benefits of K-12 diversity extend well beyond graduation: Racially integrated schools have made demonstrable differences in the lives of adults who spent their youth learning alongside children of different races.

C. The Benefits Of Diversity In K-12 Education Are More Likely To Accrue When There Is A Critical Mass Of Students Of Different Racial Backgrounds

Reduction in stereotypical thinking and prejudice depends, at least in part, on the proportion of children of different races in the classroom. To begin with, meaningful intergroup contact is possible only when a significant number of children of different racial backgrounds are present: "When a group is proportionately very small, outgroup members have very little opportunity to interact with members of [that group] even if they are inclined to do so." Schofield & Sagar, *Desegregation*, *supra*, at 71.

There is evidence, moreover, that where a minority racial group lacks critical mass, there are substantial implications for members of that group. Children whose ethnic group is a numerical minority in a school setting may be at greater risk for peer harassment. *See, e.g.*, Sandra Graham & Jaana Juvonen, *Ethnicity, Peer Harassment, and Adjustment in Middle School: An Exploratory Study*, 22 J. Early Adolescence 173, 191 (2002). Children are also more likely to self-segregate by race in order to maintain group identity. *See* Schofield & Sagar, *Desegregation*, *supra*, at 71; *see also* Schofield & Eurich-Fulcer, *supra*, at 483 ("Consistent with the contact hypothesis, when minorities are a very small proportion of the total student body self-segregation seems to be heightened."). Researchers have found, for example, that when African-Americans represent less than 15% of a student body, they are significantly more likely to choose friends on the basis of racial group membership. Schofield & Sagar, *Desegregation*, *supra*, at 71. By its very nature, self-segregation will significantly reduce intergroup

contact and thereby decrease the likelihood of cooperation. Where students have self-segregated, all students are less likely to learn to challenge social stereotypes or to focus on the similarities, rather than the differences, between themselves and members of other racial groups.

Some scholars have theorized that intergroup contact is ineffective at dispelling prejudice absent critical mass because without critical mass, the "equal status" factor identified by Allport is lacking. "[I]f only a small number of students of a given background are present, they are unlikely to enjoy equal status since they form such a small group they will be unlikely to exert much influence in the institution." Schofield & Eurich-Fulcer, *supra*, at 482-83; *see also* Schofield & Sagar, *Desegregation*, supra, at 72 (when there are small numbers of minority students, "traditional status relations may be maintained because the . . . students lack the sheer numbers to become an influential force in the life of the school"). This lack of influence means, among other things, that teachers and administrators may not recognize the significance of diversity among their students and may not see the need to organize classes in such a way as to promote cooperation and understanding among members of different racial groups.

Other scholars emphasize that where members of a racial or ethnic group are reduced to token status, they may be evaluated unfairly. *See* Shelley E. Taylor et al., *Categorical and Contextual Bases of Person Memory and Stereotyping*, 36 J. Personality & Soc. Psychol. 778, 792 (1978) ("[A] situation of token integration . . . would . . . be especially conducive to extreme evaluations and stereotyping of the minority group member."). Minority group representation in token numbers can also negatively affect the performance of minority students even in the absence of active discrimination. In particular, minority students with token status feel that others view them primarily in terms of their race and feel that they are constantly being evaluated on this basis. This feeling of being "under the microscope" may cause emotional stress and cognitive and behavioral deficits. *See* Charles G.

Lord & Delia S. Saenz, *Memory Deficits and Memory Surfeits: Differential Cognitive Consequences of Tokenism for Tokens and Observers*, 49 J. Personality & Soc. Psychol. 918, 918, 923-25 (1985).

Minority students present in only token numbers may also face "stereotype threat": that is, the threat that others will reduce them to a negative stereotype about the racial group to which they belong. In the short run, the possibility of confirming a negative stereotype can trigger an emotional response in minority students that interferes with academic performance. In the long run, it can affect minority students' very sense of identity, leading them to disidentify with domains—such as scholastic achievement—in which they face the threat of negative stereotyping. *See generally* Claude M. Steele, *A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance*, 52 Am. Psych. 613 (1997); Clark McKown & Rhona S. Weinstein, *The Development and Consequences of Stereotype Consciousness in Middle Childhood*, 74 Child Dev. 498 (2003) (reporting stereotype threat effects among elementary-school students).

Thus, much as in the higher education context, in K-12 schools, a "critical mass" of students from different racial groups is necessary to secure the benefits of intergroup contact. For schools to lay the foundation for productive cross-racial interaction among their students, numbers matter.

II. MEANINGFUL INTERGROUP CONTACT IS UNLIKELY TO OCCUR IN PUBLIC K-12 EDUCATION WITHOUT THE SCHOOL DISTRICTS' INTERVENTION

Research shows that many individuals tend to avoid situations in which they will have substantial interaction with persons they perceive to be significantly different from themselves. Crucially for purposes of the present litigation, this tendency to avoid intergroup contact means that parents often will not make the kinds of choices that will afford their children substantial opportunity to interact with children of other races.

For that reason, to secure the benefits of racial diversity in K-12 schools, there is no practical substitute for consideration of race in school assignments. In particular, alternatives that rely primarily on parental choice to achieve racial diversity are likely to be far less effective than a system in which school districts manage parental choice with the goal of reducing racial concentration and providing opportunities for meaningful intergroup contact in local schools.

A. Because Of Largely Unconscious, Automatic Cognitive And Emotional Responses, Individuals Often Avoid Intergroup Contact

Over the past several years, many have documented a substantial decrease in overt expressions of racial prejudice. *See* Gaertner & Dovidio, *supra*, at 61 (citing studies). Nevertheless, numerous studies show that prejudiced attitudes, like racial stereotyping, remain widespread. As described above in Section I.A.1, ordinary cognitive processes cause us to place people in social categories, and to favor our own categc ›ver others. When people are exposed to societal stereot, es about race, even those who maintain a conscious commitment to racial equality often develop, if unconsciously, a variety of negative feelings and thoughts (i.e., prejudices and stereotypes) about other racial and ethnic groups. *See generally* Gaertner & Dovidio, *supra*.

Studies have shown that stereotypes operate automatically, often independent of conscious attitudes, beliefs and perceptions. *See, e.g.*, Steven J. Spencer et al., *Automatic Activation of Stereotypes: The Role of Self-Image Threat*, 24 Personality & Soc. Psychol. Bull. 1139 (1998). The effect of unconscious stereotyping on cognition has been demonstrated through a number of "reaction-time" experiments measuring the speed with which two concepts are associated. The association between racial groups and racial stereotypes is outside the conscious control of the individual. *See* Patricia G. Devine, *Stereotypes and Prejudice: Their Automatic and Controlled Components*, 56 J. Personality & Soc. Psychol. 5 (1989); *see also* John F. Dovidio et al., *On the Nature of Prejudice: Automatic and Controlled Processes*,

33 J. Experimental Soc. Psychol. 510 (1997). As explained above, such stereotypes have significant cognitive effects. Among other things, stereotypes cause people to minimize the differences among individual members of another racial group and to dismiss or forget information inconsistent with their stereotypes. *See supra* Section I.A.1.

Research also shows that prejudice, like stereotypical thinking, operates implicitly. Studies demonstrate that even those who firmly maintain and articulate explicit attitudes of racial equality and acceptance nevertheless implicitly harbor a variety of negative feelings about members of other racial and ethnic groups. *See generally* Gaertner & Dovidio, *supra*. Studies focusing specifically on "aversive racism"—that is, racist prejudice harbored by those who would find it aversive to acknowledge their racial biases—has demonstrated that these subconscious prejudices can trigger discriminatory behavior. *See id.* It can also trigger avoidance: that is, people who harbor prejudice—even implicit prejudice—will often shy away from contact with persons of other races. *See, e.g.*, Pettigrew & Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, *supra*, at 753.

Some researchers emphasize that people often experience anxiety about interacting with members of other groups. *See generally* Stephan & Stephan, *Intergroup Anxiety*, *supra*. The level of anxiety varies with a number of factors. Among other things, lack of prior contact and the presence of negative stereotypes lead to increased levels of anxiety. *Id.* at 161, 163. Individuals are "unlikely to anticipate positive interaction" with members of groups about whom they harbor negative stereotypes. *Id.* at 163. And as other researchers have noted, those whose implicit prejudice is averse to their conscious beliefs are particularly likely to feel a sense of anxiety and unease, rather than open hostility or clear dislike, about interacting with persons of other racial groups. *See* Dovidio et al., *Why Can't We Just Get Along?*, *supra*, at 90.

Perhaps unsurprisingly, the "dominant response" to intergroup anxiety is avoidance. Stephan & Stephan, *Inter-*

group Anxiety, *supra*, at 165. Individuals forced to interact with one another may cope with their discomfort through various other strategies, including resort to formal and superficial interactions, withdrawal, hesitance, confusion, or even aggression. *See id.* at 165-67. But the easiest way to reduce anxiety is simply to avoid its source. *Id.* at 165. Particularly for those with less experience dealing with members of other racial groups and those who harbor implicit racial stereotypes and prejudice, that means avoiding interactions with members of other racial groups when possible.

B. Because Of Intergroup Avoidance, Private Choice Alone Is Unlikely To Produce Substantial Diversity In Public K-12 Education

The phenomena described above have important implications for the question of how to achieve K-12 diversity. Petitioners and their *amici* suggest that one race-neutral alternative to race-conscious school assignments would be to increase the quality of educational offerings at predominantly minority schools to give the parents of majority white children an incentive to send their children to these schools. *See, e.g.*, Br. for the United States as Amicus Curiae Supporting Petitioner, No. 05-908, at 23-24, 25-26 (suggesting magnet schools and "additional investment in racially concentrated schools" as alternatives to race-conscious assignment plans). The effectiveness of suggested alternatives that depend on additional incentives to attract parents to schools must be assessed in light of the distinct disincentives to integration that are associated with implicit prejudice and intergroup anxiety.

To be sure, incentives in the form of magnet programs are often designed to ameliorate racial concentration in primary and secondary education, and they have led to increased diversity in a number of schools. But magnet schools generally serve a limited number of students. For most students in a given school district, investment in predominantly minority schools to make them "equal" to other schools in terms of resources and educational quality is unlikely to provide their parents a sufficient incentive. Re-

search on the cognitive and emotional processes associated with intergroup interaction predicts that, given the choice between two schools of equal quality, parents may not *perceive* the schools as equal. *See supra* pp. 6-7, 23-25. They are therefore likely to choose the school whose student body appears more familiar to them, and likely to decide against the school where their children will encounter significant numbers of children of other races.

School choice patterns appear to bear out that prediction. Studies of school districts across the country have shown that white parents tend to choose schools with larger percentage populations of white students, suggesting a pattern of "white avoidance of racially mixed schools." Charles T. Clotfelter, *After* Brown*: The Rise and Retreat of School Desegregation* 92-93 (2004). One study documented a similar phenomenon among parents of minority children in his study of the school transfer choices made by parents in the Montgomery County, Maryland school system in 1985. Minority parents tended to choose schools with larger percentages of minority students, leading the researcher to conclude: "'Both whites and minorities seem to direct their choices toward schools in which their children will be less likely to be racially or socioeconomically isolated. Cultural familiarity is a strong point of attraction.'" *Id.* at 92, 94 (quoting Jeffrey R. Henig, *The Local Dynamics of Choice: Ethnic Preferences and Institutional Responses*, in *Who Chooses? Who Loses?: Culture, Institutions, and the Effects of School Choice* 95, 105 (Bruce Fuller et al. eds., 1996)).

Some studies have shown that some minority parents, perhaps conscious of the practical problems associated with racial isolation, also choose schools with predominantly white student bodies. *See* Clotfelter, *supra*, at 93. Even in these studies, however, parents' choices have proved less effective than other strategies in producing student body diversity. One such study, a recent examination of San Diego schools, compared a pure-choice open-enrollment program against other school choice programs employed in the school district. The study found that the open-enrollment

plan "increases the exposure of whites to Asians but decreases the exposure of whites to blacks and Hispanics." Julian R. Betts et al., *Does School Choice Work? Effects on Student Integration and Achievement* 44 (2006). By contrast, other school-choice plans specifically designed to promote racial diversity "unambiguously increase the exposure of whites to nonwhites, and vice versa." *Id.* at xvii. These findings led the authors to conclude that "built-in mechanisms aimed at promoting integration" may well be necessary to achieve racial diversity. *See id.* at xvii; *see also id.* at 47.

The principle of intergroup avoidance described in the psychological research on implicit prejudice and intergroup anxiety helps to explain these and other similar findings regarding the effects of school choice plans. These studies indicate that private choice alone is unlikely to produce schools in which children of different races have the opportunity to engage in meaningful intergroup interaction. Experience thus suggests that school districts have an important role to play in providing schools that help students overcome the implicit biases and prejudices that have historically resulted in *de facto* segregation.

CONCLUSION

For the foregoing reasons, *amici* urge the Court to affirm the decisions below.

Respectfully submitted.

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